IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE FOURTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL NO : 362 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 07/02/2005 in WP NO : 20086 OF 2002 on the file of the High Court.)

Between:

The Mahalakshmi, Co-Op Housing Bldgs Socity Ltd., rep. by its President Sri Lanka Rama Chandraiah,
No. G.2761, Vijayawada having its Head Office at - D.No. 60-22-2, Siddhartha Nagar, Vijayawada-10.

..... APPELLANT

AND

1 The State of A.P., rep. by its Prl. Secretary to Revenue,
Secretariat, Hyderabad.
2 The Commissioner Appeals, Urban Land Ceilings, Hyderabad.
3 The Special Officer, and Competent Authority, Urban Land Ceilings, Vijayawada.
4 The District Collector, Krishna District Machilipatnam.
5 The Commissioner, Municipal Corporation of Vijayawada, Vijayawada.
6 The Mandal Revenue Officer, Vijayawada Urban Mandal, Vijayawada, Krishna district.
7 The Station House Officer, Machavaram P.S., Machavaram, Krishna District.
8 Pedarla Siva Rama Prasad, S/o. Late narasimha Rao,
R/o. 33-22-24, Sita Rama Puram, Vijayawada, Krishna District.
9 Smt. G. Sivamma, W/o. garimella Subba Rao,
R/o. G-3, Jagadish Apartments, Mogularajapuram, Vijaywada, Krishna district.
10 Smt. ch. Vijaya Lakshmi, w/o. Babu Rao, D/o. Late Pedarla Narsimha Rao,
R/o. H.No.5-8/1, Kukatpally, Hyderabad.
11 Smt. M. Durga Rani, W/.o. Krishna Rao, D/o. Late Pedarla Narsimha Rao,

R/o. Deepthisree Nagar, BHEL Colony, Hyderabad.

.....RESPONDENT(S)

Counsel for the Appellant:MR.C.HANUMANTHA RAO

Counsel for the Respondent Nos.1 to 4 and 6: GP FOR REVENUE

Counsel for the Respondent No.5: None

Counsel for the Respondent No.7: G.P. for Home

Counsel for the Respondent Nos. 8 to 11: Mr. C.C.S. Sastry

The Court made the following Oral Judgment: (per Sri Devinder Gupta, CJ)

This appeal is by the writ petitioner-appellant whose writ Petition No. 20086 of 2002 was dismissed on the ground that it is only a mere agreement of sale in favour of the writ petitioner-appellant and it does not confer any interest in the land and the agreement holder without suing to specific performance of the agreement, cannot seek interim injunction restraining the owner from alienating the land.

Appellant in the writ petition sought direction against Respondents 1 to 3 not to entertain any application filed by Respondents 8 to 11 for regularization of the excess vacant land to an extent of 6,555 sq. meters in R.S No.39/A of Machavaram Village, Vijayawada Urban, Krishna District under G.O. Ms. No.456, Revenue UC-1 Department, dated 29.7.2002, in view of the agreement of sale in its favour and in view of the orders of this Court passed in earlier Writ Petition directing the 1st respondent to pass appropriate orders in exempting the land to the extent of 6,555 sq.meters as per G.O. Ms. No. 136, dated 28.1.1981. Appellant also sought direction against Respondents 4 to 7 not to entertain any application of Respondents 8 to 11 in respect of the purchased land to the appellant-society.

As a matter of fact, such writ petition seeking mandate against statutory authorities not to entertain an application itself is mis-conceived, inasmuch as, no such direction can be issued and the only direction which can be issued in such like matters would be, in case, applications are received, how they should be dealt with.

If any person aggrieved by the orders passed by the Court, he may question the legality and validity of the orders thereupon.

Appellant is claiming that it has got a vested right in seeking exemption 6,555 sq. mtrs., of land pursuant to the G.O. 136, dated 28.1.1981 and the State Government is bound to consider the same in view of the orders passed in Writ Petition No. 15158 of 1999 and C.C. No. 695 of 2000. Admittedly, the State Government has not yet passed any orders granting exemption. In the meanwhile, G.O. Ms. No. 456 Revenue (U.C.I) Department, dated 29.7.2002 has been issued, pursuant to which, appellant apprehends that Respondents 8 to 11 will file appropriate application and seek regularization of excess vacant land in their favour. These are hardly disputed questions of facts. Nothing prevents the appellant from questioning the legality and validity of the orders passed by the concerned authorities, in case, orders are passed on the applications of Respondents 8 to 11, in their favour. But, it is for the State Government to take appropriate steps in compliance with the orders of this Court. Therefore, we direct that appellants' request for exemption to be granted under G.O. Ms. No. 136, dated 28.1.1981, which is pending consideration before the State Government be considered and decided while taking into consideration the applications filed by Respondents 8 to 11, after hearing both the parties. If any party is aggrieved by such order that would be passed by the Government, needless to add that they are entitled to challenge the same in accordance with law in appropriate Court. Government not taking decision simultaneously on the applications filed by the parties might affect the valuable rights of the parties. Therefore, we direct that the applications of the appellant-society have to be decided strictly in accordance with law simultaneously with the applications of Respondents 8 to 11, after taking into consideration whether or not right accrued in favour of the appellant pursuant to G.O. Ms. No.136, dated 28.1.1981.

With these observations, the writ appeal stands disposed of. However, the observations made by the learned single judge in the order impugned in this appeal, shall not come in the way of the State Government in deciding the applications of the parties in accordance with law. No costs.

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DEVINDER GUPTA,CJ

DATE: 14th March, 2005

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B. SESHASAYANA REDDY,J

Pnb

To

1 The State of A.P., rep. by its Prl. Secretary to Revenue, Secretariat, Hyderabad.

2 The Commissioner Appeals, Urban Land Ceilings, Hyderabad.
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7 The Station House Officer, Machavaram P.S., Machavaram, Krishna District.

8 Two C.Cs. to the G.P. For Revenue, High Court Buildings, Hyderabad. (OUT)

9 Two C.Cs. to the G.P. for Home, High Court Buildings, Hyderabd.(OUT)

10 Two C.D. copies